

Serial no. 10/736,155 - Hatfield et al.

Remarks

Claims 1-12 remain of record in this application. Claim 9 has been amended. No claims have been cancelled or added.

Support for the amendment to the specification and claims is inherent in the originally filed disclosure. The recitation in claim 9 that o-diphenol compound is applied per gram of fresh "weight" of the "crop" is supported by the disclosure at lines 2-3 of paragraph no. 0014 on page 6, which discloses that the o-diphenol compound is applied at a rate from about 5-30 mM "per gram of fresh weight forage." Note that claim 9 recites "crop" rather than forage in an effort to use consistent terminology in the claims. Specifically, both independent claim 7 (from which claim 9 depends) and line 2 of claim 9 itself both recite treating a "crop". Further note that the specification uses both terms "forage" and "crop" interchangeably and in combination throughout (e.g., line 1 of paragraph no. 0002 on page 1, line 2 of paragraph no. 0009 on page 5, and line 3 of paragraph no. 0010 on page 5), and that lines 1-3 of paragraph no. 0017 on page 7 even disclose that when using transformed forages "these forages are referred to as PPO transformed crops" (emphasis added). Thus, the scope of the claims has not been altered.

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Entry of the amendment is requested to reduce the issues on appeal, specifically to overcome the single remaining rejection of record, that being the rejection of claim 9 under 35 U.S.C. 112, first paragraph. The amendment was not presented earlier because applicants believed that the claims as previously presented satisfied the requirements of §112. By this amendment, applicant has attempted to identify the antecedent basis for "fresh weight" in claim 9, and clarify that "fresh weight" refers to the weight of the crop being treated. The latter limitation has been added as the result of a telephonic conversation with Examiner Pryor on March 5, 2008, discussed below.

Because the amendment does not introduce any new limitations or broaden the scope of the claims, applicants believe that the amendment does not raise any new issues that would require further consideration or search. Entry is respectfully requested.

#### Allowed Claims

Applicants kindly thank the Examiner for indicating that claims 1-8 and 10-12 are allowed.

#### Telephonic Interview

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Applicants also kindly thank the Examiner for granting a telephonic interview on March 5, 2008, to discuss the rejection under 35 U.S.C. 112, first paragraph. As noted above, in response to the Examiner's position that the recitation of "fresh weight" in claim 9 constituted new matter, applicants' representative pointed out the antecedent basis for the term in paragraph no. 0014 of the specification. During the course of the interview, the Examiner questioned what "fresh weight" in claim 9 referred to, and noted that paragraph no. 0014 referred to "fresh weight forage" (emphasis added). Applicants' representative indicated that "fresh weight" simply referred to the fresh weight of the crop being treated. Thus, in an effort to remove any confusion, claim 9 has been further amended to recite "fresh weight of said crop". Applicants' representative further noted that the terms "forage" and "crops" were used interchangeably throughout the specification, and "fresh weight forage" in paragraph no. 0014 had the same meaning as "fresh weight of said crop" in claim 9. Claim 9 has been amended to recite "crop" rather than "forage" in an effort to use consistent terminology in the claims.

Rejection Under 35 U.S.C. 112, First Paragraph


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Claim 9 has been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner has taken the position that the term "fresh weight" is new matter. Applicants respectfully disagree.

As noted above, the recitation in claim 9 that o-diphenol compound is applied per gram of fresh "weight" of the "crop" is supported by the disclosure at lines 2-3 of paragraph no. 0014 on page 6, which discloses that the o-diphenol compound is applied at a rate from about 5-30 mM "per gram of fresh weight forage."

In view of the foregoing, applicants respectfully submit that claims 1-12 satisfy the requirements of 35 U.S.C. 112, and allowance thereof is respectfully requested.

Respectfully submitted,

  
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